

**Assembly Bill No. 1280**

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Passed the Assembly    September 12, 2001

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*Chief Clerk of the Assembly*

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Passed the Senate    September 10, 2001

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2001, at \_\_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_\_

An act to amend Sections 15210, 15240, 15300, 15302, 22452, 22526, 34510, and 40001 of, to add Section 15312 to, and to repeal Section 35559 of, the Vehicle Code, relating to vehicles.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1280, Reyes. Commercial motor vehicles.

(1) Under existing law governing commercial motor vehicle safety, the term “serious traffic felony” is defined to include specific traffic violations.

This bill would include in that definition driving a commercial motor vehicle without a commercial driver’s license, driving a commercial motor vehicle without the driver having in his or her possession a commercial driver’s license, except as specified, and driving a commercial motor vehicle when the driver has not met the minimum testing standards for that vehicle as to the class or type of cargo the vehicle is carrying.

(2) Existing law prohibits an employer to knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle under specified conditions.

This bill would also prohibit an employer to require the driver to drive under the specified conditions which would be expanded to include instances where the driver or the commercial motor vehicle or motor carrier operator is subject to an out-of-service order or instances in violation of any law or regulation pertaining to a railroad-highway grade crossing.

(3) Existing law prohibits a driver of a commercial motor vehicle from operating a commercial motor vehicle for a period of one year if the driver is convicted of a first violation of specified vehicle-related offenses.

This bill would additionally include within the listed offenses driving a commercial motor vehicle when the driver’s commercial driver’s license is revoked, suspended, or canceled based on the driver’s operation of a commercial motor vehicle, when the driver is disqualified from operating a commercial motor vehicle based on the driver’s operation of a commercial motor vehicle, and when the driver causes a fatality through negligent or criminal operation



of a commercial motor vehicle, as specified under federal law, resulting in a conviction.

(4) Existing law prohibits for a lifetime a driver of a commercial motor vehicle from operating a commercial motor vehicle if convicted of more than one violation of specific vehicle-related offenses.

This bill would include in those listed offenses the additional multiple offenses of driving a commercial motor vehicle when the driver's commercial driver's license is revoked, suspended, or canceled based on the driver's operation of a commercial motor vehicle, when the driver is disqualified from operation of a commercial motor vehicle based on the driver's operation of a commercial motor vehicle, and when the driver causes multiple fatalities through negligent or criminal operation of a commercial motor vehicle, as specified under federal law, resulting in a conviction.

This bill would also prohibit a driver from operating a commercial motor vehicle for not less than 60 days, 120 days, or one year, depending upon the occurrence of prior violations within specified periods, of specific offenses involving certain violations occurring at railroad-highway grade crossings.

(5) Existing law generally requires the driver of certain listed vehicles, before traversing a railroad crossing, to stop that vehicle not less than 15 nor more than 50 feet from the nearest rail of the track and while so stopped to listen, and look in both directions along the track, for any approaching train and for signals indicating the approach of a train, and not to proceed until he or she can do so safely.

This bill would revise vehicles subject to the above requirement to include farm labor vehicles and vehicles based on federal regulatory classifications.

(6) Existing law requires a vehicle operator to provide a person engaged in the loading of a container or trailer, having an actual cargo weight capacity of more than 10,000 pounds, involving agricultural products, as specified, with the tare weight of the tractor, container, or trailer to be loaded.

This bill would delete that requirement.

(7) Existing law requires a court, whenever a person, charged with a gross weight violation, shows to the satisfaction of the court that the person conducted his or her activities pursuant to a gross



cargo weight verification issued in accordance with federal law and that the verification specifies a stated gross cargo weight that could be lawfully transported by the equipment on which the cargo was loaded, on request of the person so charged, to take appropriate steps to make that party a codefendant. Existing law allows the court to dismiss the charges against the person who received the gross cargo weight verification.

This bill would repeal those provisions.

(8) Existing law makes it a crime for the owner, or any other person, employing or otherwise directing the driver of any vehicle to cause the operation of the vehicle upon a highway in any manner contrary to law.

This bill would impose a fine of not more than \$10,000 on any employer who is convicted of allowing, permitting, requiring, or authorizing a driver to operate a commercial motor vehicle in violation of any law pertaining to a railroad-highway grade crossing.

(9) To the extent that this bill would expand the scope of existing crimes and would create new crimes, this bill would impose a state-mandated local program.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 15210 of the Vehicle Code is amended to read:

15210. Notwithstanding any other provision of this code, as used in this chapter:

(a) “Commercial driver’s license” means a driver’s license issued by a state or other jurisdiction, in accordance with the standards contained in Part 383 of Title 49 of the Code of Federal Regulations, which authorizes the licenseholder to operate a class or type of commercial motor vehicle.

(b) (1) “Commercial motor vehicle” means any vehicle or combination of vehicles which requires a class A or class B license,



or a class C license with an endorsement issued pursuant to paragraph (4) of subdivision (a) of Section 15278.

(2) “Commercial motor vehicle” does not include any of the following:

(A) A recreational vehicle, as defined in Section 799.24 of the Civil Code.

(B) Military equipment operated by noncivilian personnel, which is owned or operated by the United States Department of Defense, including the National Guard, as provided in Parts 383 and 391 of Title 49 of the Code of Federal Regulations.

(C) An implement of husbandry operated by a person who is not required to obtain a driver’s license under this code.

(D) Vehicles operated by persons exempted pursuant to Section 25163 of the Health and Safety Code or a vehicle operated in an emergency situation at the direction of a peace officer pursuant to Section 2800.

(c) “Controlled substance” has the same meaning as defined by the federal Controlled Substances Act (21 U.S.C. Sec. 802).

(d) “Disqualification” means a prohibition against driving a commercial motor vehicle.

(e) “Employer” means any person, including the United States, a state, or political subdivision of a state, who owns or leases a commercial motor vehicle or assigns drivers to operate such a vehicle. A person who employs himself or herself as a commercial vehicle driver is considered to be both an employer and a driver for purposes of this chapter.

(f) “Felony” means an offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year.

(g) “Gross combination weight rating” means the value specified by the manufacturer as the maximum loaded weight of a combination or articulated vehicle. In the absence of a value specified by the manufacturer, gross vehicle weight rating will be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed units and any load thereon.

(h) “Gross vehicle weight rating” means the value specified by the manufacturer as the maximum loaded weight of a single vehicle, as defined in Section 390.

(i) “Serious traffic violation” includes any of the following:



(1) Excessive speeding, as defined pursuant to the federal Commercial Motor Vehicle Safety Act (P.L. 99-570).

(2) Reckless driving, as defined pursuant to the federal Commercial Motor Vehicle Safety Act (P.L. 99-570).

(3) A violation of any state or local law involving the safe operation of a motor vehicle, arising in connection with a fatal traffic accident.

(4) Any other similar violation of a state or local law involving the safe operation of a motor vehicle, as defined pursuant to the Commercial Motor Vehicle Safety Act (Title XII of P.L. 99-570).

(5) Driving a commercial motor vehicle without a commercial driver's license.

(6) Driving a commercial motor vehicle without the driver having in his or her possession a commercial driver's license, unless the driver provides proof at the subsequent court appearance that he or she held a valid commercial driver's license on the date of the violation.

(7) Driving a commercial motor vehicle when the driver has not met the minimum testing standards for that vehicle as to the class or type of cargo the vehicle is carrying.

In the absence of a federal definition, existing definitions under this code shall apply.

(j) "State" means a state of the United States or the District of Columbia.

(k) "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is permanently or temporarily attached to the vehicle or the chassis, including, but not limited to, cargo tanks and portable tanks, as defined in Part 171 of Title 49 of the Code of Federal Regulations. This definition does not include portable tanks having a rated capacity under 1,000 gallons.

SEC. 2. Section 15240 of the Vehicle Code is amended to read:

15240. No employer shall knowingly allow, permit, require, or authorize a driver to drive a commercial motor vehicle under any of the following conditions:

(a) The driver has a driver's license or privilege suspended, revoked, or canceled by any state or has been disqualified from operating a commercial motor vehicle.

(b) The driver has more than one driver's license.



(c) The driver or the commercial motor vehicle or motor carrier operation is subject to an out-of-service order as described in subdivision (b) of Section 2800.

(d) In violation of any law or regulation pertaining to a railroad-highway grade crossing.

SEC. 3. Section 15300 of the Vehicle Code is amended to read:

15300. (a) No driver of a commercial motor vehicle may operate a commercial motor vehicle for a period of one year if the driver is convicted of a first violation of any of the following:

(1) Driving a commercial motor vehicle while under the influence of alcohol or a controlled substance.

(2) Leaving the scene of an accident involving a commercial motor vehicle operated by the driver.

(3) Driving a commercial motor vehicle when the driver's commercial driver's license is revoked, suspended, or canceled based on the driver's operation of a commercial motor vehicle or when the driver is disqualified from operating a commercial motor vehicle based on the driver's operation of a commercial motor vehicle.

(4) Causing a fatality involving conduct defined pursuant to subparagraph (E) of paragraph (1) of subsection (b) of Section 31310 of Title 49 of the United States Code.

(5) A violation of Section 2800.1, 2800.2, or 2800.3 that involves a commercial motor vehicle.

(b) If any of the above violations, or a violation listed in paragraph (2) of subdivision (a) of Section 13350 or Section 13352 or 13357, occurred while transporting a hazardous material, the period specified in subdivision (a) shall be three years.

SEC. 4. Section 15302 of the Vehicle Code is amended to read:

15302. No driver of a commercial motor vehicle may operate a commercial motor vehicle for the rest of his or her life if convicted of more than one violation of any of the following:

(a) Driving a commercial motor vehicle while under the influence of alcohol or a controlled substance.

(b) Leaving the scene of an accident involving a commercial motor vehicle operated by the driver.



(c) Using a commercial motor vehicle in the commission of more than one felony arising out of separate occasions of arrest or citation.

(d) Driving a commercial motor vehicle when the driver's commercial driver's license is revoked, suspended, or canceled based on the driver's operation of a commercial motor vehicle or when the driver is disqualified from operating a commercial motor vehicle based on the driver's operation of a commercial motor vehicle.

(e) Causing a fatality involving conduct defined pursuant to subparagraph (E) of paragraph (1) of subsection (c) of Title 49 of Section 31310 of the United States Code.

(f) A violation of Section 2800.1, 2800.2, or 2800.3 that involves a commercial motor vehicle.

(e) Any combination of the above violations.

SEC. 5. Section 15312 is added to the Vehicle Code, to read:

15312. No driver shall operate a commercial motor vehicle for the following periods:

(a) Not less than 60 days if that person is convicted of a violation of Section 2800, 21462, 22451, or 22452, or subdivision (c) of Section 22526, involving a commercial motor vehicle and the violation occurred at a railroad-highway crossing.

(b) Not less than 120 days if that person is convicted of a violation of Section 2800, 21462, 22451, or 22452, or subdivision (c) of Section 22526, involving a commercial motor vehicle, and that violation occurred at a railroad-highway crossing, during any three-year period of a separate, prior offense of a railroad-highway grade crossing violation, that resulted in a conviction.

(c) Not less than one year if that person is convicted of a violation of Section 2800, 21462, 22451, or 22452, or subdivision (c) of Section 22526, involving a commercial motor vehicle, and that violation occurred at a railroad-highway crossing, at a railroad-highway grade crossing, during any three-year period of two or more prior offenses of a railroad-highway grade crossing violation, that resulted in convictions.

SEC. 6. Section 22452 of the Vehicle Code is amended to read:

22452. (a) Subdivisions (b) and (c) apply to the operation of the following vehicles:

(1) Any bus or farm labor vehicle carrying passengers.





(2) Any motortruck transporting employees in addition to those riding in the cab.

(3) Any schoolbus and any school pupil activity bus transporting school pupils, except as otherwise provided in paragraph (4) of subdivision (c).

(4) Every commercial motor vehicle transporting any quantity of a Division 2.3 chlorine, as classified by Title 49 of the Code of Federal Regulations.

(5) Every commercial motor vehicle that is required to be marked or placarded in accordance with the regulations of Title 49 of the Code of Federal Regulations with one of the following federal classifications:

- (A) Division 1.1.
- (B) Division 1.2, or Division 1.3.
- (C) Division 2.3 Poison gas.
- (D) Division 4.3.
- (E) Class 7.
- (F) Class 3 Flammable.
- (G) Division 5.1.
- (H) Division 2.2.
- (I) Division 2.3 Chlorine.
- (J) Division 6.1 Poison.
- (K) Division 2.2 Oxygen.
- (L) Division 2.1.
- (M) Class 3 Combustible liquid.
- (N) Division 4.1.
- (O) Division 5.1.
- (P) Division 5.2.
- (Q) Class 8.
- (R) Class Division 1.4.

(S) Every cargo tank motor vehicle, whether loaded or empty, used for the transportation of any hazardous material, as defined in Parts 107 to 180, inclusive, of Title 49 of the Code of Federal Regulations.

(6) Every cargo tank motor vehicle transporting a commodity that at the time of loading has a temperature above its flashpoint, as determined under Section 173.120 of Title 49 of the Code of Federal Regulations.

(7) Every cargo tank motor vehicle, whether loaded or empty, transporting any commodity under exemption in accordance with



Subpart B of Part 107 of Title 49 of the Code of Federal Regulations.

(b) Before traversing a railroad grade crossing, the driver of any vehicle described in subdivision (a) shall stop that vehicle not less than 15 nor more than 50 feet from the nearest rail of the track and while so stopped shall listen, and look in both directions along the track, for any approaching train and for signals indicating the approach of a train, and shall not proceed until he or she can do so safely. Upon proceeding, the gears shall not be shifted manually while crossing the tracks.

(c) No stop need be made at any crossing in the following circumstances:

(1) Of railroad tracks running along and upon the roadway within a business or residence district.

(2) Where a traffic officer or an official traffic control signal directs traffic to proceed.

(3) Where an exempt sign was authorized by the Public Utilities Commission prior to January 1, 1978.

(4) Where an official railroad crossing stop exempt sign in compliance with Section 21400 has been placed by the Department of Transportation or a local authority pursuant to Section 22452.5. This paragraph shall not apply with respect to any schoolbus or to any school pupil activity bus.

SEC. 7. Section 22526 of the Vehicle Code is amended to read:

22526. (a) Notwithstanding any official traffic control signal indication to proceed, a driver of a vehicle shall not enter an intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or marked crosswalk to accommodate the vehicle driven without obstructing the through passage of vehicles from either side.

(b) A driver of a vehicle which is making a turn at an intersection who is facing a steady circular yellow or yellow arrow signal shall not enter the intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or marked crosswalk to accommodate the vehicle driven without obstructing the through passage of vehicles from either side.

(c) A driver of a vehicle shall not enter a railroad or rail transit crossing, notwithstanding any official traffic control device or signal indication to proceed, unless there is sufficient space on the



other side of the railroad or rail transit crossing to accommodate the vehicle driven or there is sufficient undercarriage clearance to cross the intersection without obstructing the through passage of a railway vehicle, including, but not limited to, a train, trolley, or city transit vehicle.

(d) A local authority may post appropriate signs at the entrance to intersections indicating the prohibition in subdivisions (a), (b), and (c).

(e) A violation of this section is not a violation of a law relating to the safe operation of vehicles and is the following:

(1) A stopping violation when a notice to appear has been issued by a peace officer described in Section 830.1 or 830.2 of the Penal Code.

(2) A parking violation when a notice of parking violation is issued by a person, other than a peace officer described in paragraph (1), who is authorized to enforce parking statutes and regulations.

(f) This section shall be known and may be cited as the Anti-Gridlock Act of 1987.

SEC. 8. Section 34510 of the Vehicle Code is amended to read:

34510. Persons operating vehicles, or combinations of vehicles, in the transportation of hazardous material and subject to this division, shall carry in the vehicle while en route any shipping papers required to accompany the vehicle in accordance with regulations adopted pursuant to Section 2402. The bill of lading or other shipping paper shall be displayed upon demand of any member of the California Highway Patrol or any police officer of a city who is on duty for the exclusive or main purpose of enforcing the provisions of this code.

SEC. 9. Section 35559 of the Vehicle Code is repealed.

SEC. 10. Section 40001 of the Vehicle Code is amended to read:

40001. (a) It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to cause the operation of the vehicle upon a highway in any manner contrary to law.

(b) It is unlawful for an owner to request, cause, or permit the operation of any vehicle that is any of the following:



(1) Not registered or for which any fee has not been paid under this code.

(2) Not equipped as required in this code.

(3) Not in compliance with the size, weight, or load provisions of this code.

(4) Not in compliance with the regulations promulgated pursuant to this code, or with applicable city or county ordinances adopted pursuant to this code.

(5) Not in compliance with the provisions of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code and the rules and regulations of the State Air Resources Board.

(c) Any employer who violates an out-of-service order, that complies with Section 396.9 of Title 49 of the Code of Federal Regulations, or who knowingly requires or permits a driver to violate or fail to comply with that out-of-service order, is guilty of a misdemeanor.

(d) An employer who is convicted of allowing, permitting, requiring, or authorizing a driver to operate a commercial motor vehicle in violation of any statute or regulation pertaining to a railroad-highway grade crossing is subject to a fine of not more than ten thousand dollars (\$10,000).

(e) Whenever a violation is chargeable to the owner or lessee of a vehicle pursuant to subdivision (a) or (b), the driver shall not be arrested or cited for the violation unless the vehicle is registered in a state or country other than California, or unless the violation is for an offense that is clearly within the responsibility of the driver. The Department of the California Highway Patrol shall report to the Legislature on or before January 1, 1988, concerning the effects of this subdivision.

(f) Whenever the owner, or lessee, or any other person is prosecuted for a violation pursuant to this section, the court may, on the request of the defendant, take appropriate steps to make the driver of the vehicle, or any other person who directs the loading, maintenance, or operation of the vehicle, a codefendant. However, the court may make the driver a codefendant only if the driver is the owner or lessee of the vehicle, or the driver is an employee or a contractor of the defendant who requested the court to make the driver a codefendant. If the codefendant is held solely responsible



and found guilty, the court may dismiss the charge against the defendant.

(g) In any prosecution under this section, it is a rebuttable presumption that any person who gives false or erroneous information in a written certification of actual gross cargo weight has directed, requested, caused, or permitted the operation of a vehicle in a manner contrary to law in violation of subdivision (a) or (b), or both.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved \_\_\_\_\_, 2001

\_\_\_\_\_  
*Governor*

